

FILEDIN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ JUL 31 2009 ★

DANIEL A. STERN, on his own behalf
and on behalf of all others similarly situated,

LONG ISLAND OFFICE

CV - 09 3322CLASS ACTION COMPLAINT

-against-

Plaintiff,


JURY TRIAL DEMANDED

GARAUFIS, J.**GO, M.**NCO FINANCIAL SYSTEMS, INC. and
FIRST REVENUE ASSURANCE, LLC

Defendants.

X

Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendants and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendants violation of §1692 *et. seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors within the meaning of 15 U.S.C. § 1692a(6) from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.
3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Daniel A. Stern is a resident of the State of New York, Queens County. On or about June 10, 2009, plaintiff received and came into contact with a form debt collection notice from defendant First Revenue Assurance, LLC at plaintiff's home address. Exhibit A and B.

5. Defendant NCO Financial Systems, Inc. is a Pennsylvania Corporation. Its Principal Executive Office is located at 507 Prudential Road, Horsham, PA 19044. Defendant attempts to collect debts alleged to be due another. Its Registered Agent is CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

6. Defendant First Revenue Assurance, LLC is a Delaware Limited Liability Company. It attempts to collect alleged debts to be due another. Its Registered Agent is The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801.

CLASS ACTION ALLEGATIONS

7. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of himself and all consumers who have received debt collection notices and/or letters from the defendants which are in violation of the FDCPA, as indicated in paragraphs numbered 16-21, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant.

8. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

9. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendants which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether NCO violated various provisions of the FDCPA by NCO's failure to notify the consumer that unless he disputes the validity of the debt with NCO, the debt will be considered valid in violation of 15 U.S.C. § 1692g.

b. Whether First Revenue Assurance, LLC sent a notice to consumers claiming a debt was owed to NCO Portfolio Management which directed the consumer to contact the creditor in violation of 15 U.S.C. §1692e(10), 1692e(12), 1692e(14), and 1692g(a)(2).

c. Whether plaintiff and the Class have been injured by the defendant's conduct;

d. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

e. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

11. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

12. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

13. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

14. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will

permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendants conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

15. Defendants have acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

16. Starting on or about June 10, 2009 defendant First Revenue Assurance sent a collection letter regarding a purported NCO Portfolio Management account. Upon receipt of defendant's letter, plaintiff opened and read it. A copy of said letter is annexed hereto as Exhibit A and B.

17. On June 24, 2009, a letter demanding verification of the claim that NCO Portfolio Management is a creditor of Daniel Stern was delivered by fax to First revenue Assurance. Exhibit C.

FIRST CAUSE OF ACTION

18. Each of the above allegations is incorporated herein.

19. The collection letter contradicted the directive for the consumer to contact First Revenue Assurance to dispute the validity of the debt as provided by 15 U.S.C. §1692g(a)(3) and §1692g(a)(4) by the collection letter stating: "Please be advised that your account is being serviced by NCO Financial Systems, Inc. Please direct all inquiries in regard to this notice to NCO Financial Systems, Inc., P.O. Box 15630, Wilmington, DE 19850 or (866) 576-1447. In accordance with the Fair Debt Collection Practicers Act (FDCPA): This is an attempt to collect a debt by a debt collector." Exhibit B.

20. Upon information and belief, First Revenue Assurance , LLC falsely publishes that NCO Portfolio Management is a creditor of Daniel A. Stern absent the ability to verify the claim in violation of 15 U.S.C. § 1692e(10), 1692e(12), 1692e(14) and 1692g(a)(2).

21. As a result of defendants abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages;
- d) Awarding plaintiff and the class costs of this action, including reasonable attorneys' fees and expenses; and
- e) Awarding plaintiff and the class such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: July 29, 2009
Uniondale, New York



Abraham Kleinman (AK-6300)

KLEINMAN LLC

626 RXR Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621

Facsimile (888) 522-1692

EXHIBIT A

PC BOST 1259
OAKS, P. 1 19-156



PERSONAL & CONFIDENTIAL
Return Service Requested

151

888-258-5843

First Revenue Assurance

June 10, 2019

Your Account No : 11765724
You Owe: NCO PORTFOLIO MANAGEMENT
Balance: \$782.23

2260 · 15483

228911765724
DANIEL A STERN
525 JARVIS AVENUE
FAR ROCKAWAY NY 11691-5441

**Visit our web site www.firsttrevenue.com
Make a payment, set up a payment plan,
report important information regarding your
account.**

DANIEL A STERN

Your AT & T account has been purchased by NCO PORTFOLIO MANAGEMENT. All inquiries regarding this account should be made to First Revenue Assurance and not to AT & T, as they may have no readily available information based on the sale of this account.

First Revenue Assurance has received authorization from our client to exceed 50% of the total due if you pay it now.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

For information about the Colorado Fair Debt Collections Practices Act, see www.ago.state.co.us/cadcp/cadcpmain.cfm.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

PLEASE MAIL ALL CORRESPONDENCE TO PO BOX 5818 DENVER CO 80217

IMPORTANT: Please have this reference number handy when calling our office # 117652

OFFICE HOURS: MONDAY-FRIDAY 7:00AM-5:00PM MSL

PLEASE DETACH AND ENCLOSE THE LOWER PORTION WITH YOUR PAYMENT IN THE ENVELOPE PROVIDED.

۱۱۰

Send correspondence to above address.

IF YOU WISH TO PAY BY VISA OR MASTERCARD, PLEASE CALL OUR OFFICE OR VISIT OUR WEBSITE AT www.firRevenue.com

VISA VISA

MASTERCARD

Creditor: NCO PORTFOLIO MANAGEMENT
Amount Due: \$391.12
Account No: 11765724
Client Ref #: 0027525299
Amount Enclosed:

SEND ONLY PAYMENTS TO THIS ADDRESS:

11765724 159
FIRST REVENUE ASSURANCE
PO BOX 5818
DENVER, CO 80217

DANIEL A STERN
525 JARVIS AVENUE
FAR ROCKAWAY NY 116915441

00000001176572400000000159000000782236

Please review the Privacy Notice enclosed with this letter for an explanation of the account owners policies and procedures regarding the use of non-public personal information.

Exhibit B

NCO Portfolio Management, Inc. (NCO Portfolio Management is a d/b/a for many of the affiliated companies), NCO Services, Inc., NCO® Financing, Inc., NCO® I, Inc., NCO® II, Inc., NCO® III, Inc., NCO® IV, Inc., NCO® V, Inc., NCO® VI, Inc., NCO® VII, Inc., NCO® VIII, LLC, NCO® IX, LLC, NCO® X, LLC, NCO® Lakes, Inc., NCO® Capital, Inc., NCO® Capital I, LLC, NCO® Capital II, LLC, NCO® Capital III, LLC, NCO® Capital IV, LLC, NCO®/CE, LLC, NCO® CE II, LLC, Creditrust SPV2, LLC, Creditrust SPV98-2, LLC, Creditrust Funding I, LLC, Creditrust SPV99-1, LLC, Creditrust SPV99-2, LLC, NCO®-Marlin CVI, LLC, Portfolio Acquisitions, LLC, Marlin Services, LLC, Inovision-Medeler-NCOP-NF, LLC, Inovision-Medeler-NCOP-E, LLC, Medeler, Inc., Inovision Medeler Portfolio Group, LLC, Integrated Capital, A NCOP Company, LLC, Inovision Capital, LLC, Inovision, Inc., Inovision, A NCOP Company, LLC, Medeler Hospital Portfolio, LLC and NCO® X, LLC (collectively the "Companies," and "us" or "we" when referring to a particular company).

Privacy Notice

This notice is being forwarded to you in compliance with the requirements of the Gramm-Leach-Bliley Privacy Act, 15 U.S.C. sec. 6801 et seq. It has no reflection or bearing upon the status of your account.

Information We May Collect

NCO Portfolio Management, Inc., together with its affiliated companies listed above (collectively, the "Account Owners" or "we"), collects non-public personal information about you that is obtained from one or more of the following sources:

1. Information we received from companies that sold us your account (for example, applications and other related forms);
2. Information about your transactions with us, our affiliates, or others; and
3. Information we received from a consumer-reporting agency.

Information We May Share With Our Affiliates

The Account Owners may share identification information (such as name and address), information about our transactions and experiences with you (such as payment history), and information that does not identify you, with companies related to us by common control or ownership ("affiliates"). By sharing this information, we are better able to service your accounts.

Information We May Share With Nonaffiliated Companies

The Account Owners may share all of the information we collect about you, as described above, with nonaffiliated companies, as permitted by law. For example:

- We may share information about you with companies that we use to perform account-servicing functions to manage and maintain your account and to process transactions that you have authorized; and
- We may report information about you to consumer reporting agencies, government agencies in response to subpoenas, or others in connection with investigations.

Confidentiality and Security of your Account

The Account Owners restrict access to nonpublic personal information about you to only those employees who need to know such information, and third party service providers who provide support services to us. We maintain physical, electronic and procedural safeguards to protect your personal information. If we use other companies to provide services for us, we require them to keep the information we share with them safe and secure and we do not allow them to use or share the information for any purpose other than the job they are hired to do.

Additional Rights and Modifications

You may have other privacy protections under state or federal laws including the Fair Debt Collection Practices Act. This notice does not affect any rights or privacy protections provided by these laws. We may amend this Privacy Notice at any time, and will inform you of changes as required by law.

Please be advised that your account is being serviced by NCO Financial Systems, Inc. Please direct all inquiries in regard to this notice to NCO Financial Systems, Inc., P.O. Box 15630, Wilmington, DE 19850 or (866) 576-1447.

In accordance with the Fair Debt Collection Practices Act (FDCPA), this is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose.

Vermont Residents Only: Following the law of your state, we will not disclose nonpublic personal financial information about you to nonaffiliated third parties (other than as permitted by law) unless you authorize us to make that disclosure. Your authorization must be in writing. If you wish to authorize us to disclose your nonpublic personal financial information to nonaffiliated third parties, you may write to us at: P.O. Box 15630, Wilmington, DE 19850.

LAW OFFICE
KLEINMAN LLC
626 REXCORP PLAZA
UNIONDALE, NEW YORK 11556-0626

ABRAHAM KLEINMAN
ATTORNEY AT LAW

TELEPHONE
(516) 522-2621

FACSIMILE
(888) 522-1692

June 24, 2009

VIA FACSIMILE ONLY TO

(303) 388-1372

First Revenue Assurance
PO Box 5818
Denver, Colorado 80217

Re: Your Account Number: 11765724

Disputed Creditor: NCO Portfolio Management

Disputed Balance: \$782.23

Dear Sir or Madam:

Please be advised that I represent Daniel A. Stern concerning your Account Number 11765724.

Please be advised that my client disputes the validity of this purported debt.

Please send Abraham Kleinman verification that NCO Portfolio Management purchased this disputed AT&T debt.

Please send Abraham Kleinman verification of the \$782.23 debt.

Please send Abraham Kleinman the Address of the Original Creditior.

Thank You,



-Abraham Kleinman

Exhibit C

▼ Subject: Fax Message Transmission Result To: +1 (303) 388-1372, Sent Case: 1:09-cv-03322-NGG-MDG Document 1 Filed 07/31/09 Page 14 of 14
From: RingCentral
Date: 24 Jun 2009 14:37:16 -0700
To: ABRAHAM KLEINMAN

Here are the results of the 3-page fax you sent from your phone number (888) 522-1692:

Name	Phone Number	Date and Time	Result
	+1 (303) 388-1372	Wednesday, June 24, 2009 at 05:37 PM	Sent

Thank you for using RingCentral.